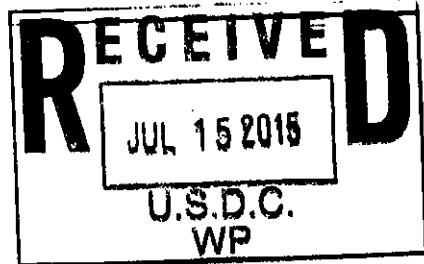


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



CHIDI DAVID ACHEZARA

Plaintiff

COMPLAINT 15 CV 0965 (AMENDED)

JURY TRIAL DEMANDED

Against-

CITY OF NEW YORK, P.O.Brendan Bergin, Shield #3110;

P.O Joseph Tretola, Shield # 6459: Sergeant Harold Murphy, Shield #687:

Defendants

Plaintiff, Chidi David Achezara, acting on his own terms alleges as follows

1. INTRODUCTION

This is an action pursuant to 42 U.S.C Section 1983 to vindicate the civil rights of Chidi David Achezara, a black male. Chidi contends that defendant

maliciously abused process against him and falsely arrested, falsely imprisoned, falsely strip searched and maliciously prosecuted him. Defendant was acting under the color of stated law and pursuant to municipal customs, practices and policies when he undertook the aforementioned acts against plaintiff

11 JURISDICTION

2. This court has jurisdiction over this action under 42 U.S.C Sections 1983, and the 4th, 5th and 14th amendments of the constitution of the United States. Venue is

proper, as the operative events occurred within this judicial district and plaintiff resides within the judicial district

111 PARTIES

Chidi David Achezara is a black male. He resides in Westchester County and he sues in his own behalf

4 Defendants, City of New York is a municipality that is incorporated under the laws of the state of New York. Its principal place of business is located in New

York, New York. Its actions, and those of its agents, must conform to the dictates of the constitution of the United States. It may sue and be sued, and at all

relevant times herein, acted under color of state law and pursuant to its own policies, practices and customs

5 Defendant - P.O.Brendan Bergin, Shield #3110 ,P.O Joseph Tretola , Sheild # 6459 , Sergeant Harold Murphy,Shield #687 were and still employed by the city of New York as Police officers. The Officers actions must conform to the

dictates of the Constitution of the United States of America. They are sued in their individual capacity for violating plaintiff's civil rights while acting under the color

of State law and /or acting pursuant to policies , practices and customs of the City of New York

IV FACTUAL AVERMENTS

6 Defendants- P.O.Brendan Bergin, Shield #3110 ;P.O Joseph Tretola , Sheild # 6459 , Sergeant Harold Murphy,Shield #687 , while acting under color of state law and pursuant to policies ,

practices and customs of the City of New York, violated plaintiffs civil rights in the following ways:

- a) On or about March 05 , 2013 ,Defendants- P.O.Brendan Bergin, Shield #3110 ;P.O Joseph Tretola , Sheild # 6459 , Sergeant Harold Murphy,Shield #687 in the company of several police officers of the New York City Police Department jumped out of the van and approached Plaintiff and began to question him amongst other things while he was walking up the Subway stairs with a "big suitcase".
- b) P.O Bergin, along with the other officers questioned what plaintiff was going up the subway for with the "big bag". Additionally, P.O Bergin questioned plaintiff about who owned the computer on the trunk, even though it was not visible to the naked eyes
- c) P.O Bergin and the other officers took apart Plaintiff's laptop and big bag and inquired if there was any drugs in the other computer or bag
- d) P.O. Bergin and other New York officers asked why plaintiff was out of the house at that time of the day and who plaintiff's parole officer was
- e) P.O.Bergin and the other officers questioned Plaintiff of information on active drug dealers in the area; P.O Bergin and other officers smirked and made fun of Plaintiff's appearance
- f) When Plaintiff informed P.O Bergin and other officers that he has no information about any drug dealers, the officers requested permission from Plaintiff to search the car. P.O Bergin and other officers searched the car anyways without Plaintiff's permission or consent.
- g) P.O Bergin and other officers requested for Plaintiff's driver license, which plaintiff showed to them
- h) P.O Bergin and other officers stated that Plaintiff's driver's License that Plaintiff showed them was not real, since it has not any picture id
- i) P.O Bergin and other officers handcuffed Plaintiff and after driving around took Plaintiff to the stationhouse without any explanations.
- j) P.O Bergin and other officers who are members of the Police Dept., also proceeded to use Plaintiffs cellphone to communicate to Plaintiff's employers without Plaintiff's permission
- k) Defendant and other officers who are members of the NYPD communicated to Plaintiff's employers that Plaintiff is under arrest for drug dealing. Additionally, The NYPD Officers also communicated to Plaintiff's aunt and mother when they called plaintiff's phone that Plaintiff is under arrest for drug dealing.
- l) Plaintiff at no time gave defendant any permission to use his phone or to communicate to anyone, utilizing his phone

j) Defendants did not have probable cause to arrest Plaintiff

k) Whilst in custody , Plaintiff was made to take off all the clothes , as police officers searched for contraband and /or weapons, Plaintiff was unable to squat as officers looked into his anus

l) Plaintiff found the process degrading, dehumanizing and oppressive

m) After the strip search, plaintiff was made to wait in the jail cell, refused medical request to attend for his heart problems for several hours for allegedly making an illegal U-turn and driving with a suspended license

n) Plaintiff did not make an illegal U-turn, as plaintiff was not driving a car. Plaintiff was not driving any car at the time of his arrest

o) Plaintiff did not have a suspended license and Plaintiff was not driving any car

s) Between Mar 05, 2013 and Mar 10 2014, Plaintiff made numerous appearances in court to hear the charges. Plaintiff found this process expensive, time- consuming and embarrassing

p) On or about Mar 10, 2014, the aforementioned criminal proceedings terminated in plaintiffs favor, as it was dismissed and sealed

Q) Defendants unauthorized usage of Plaintiff's phone caused plaintiff to lose his job

r) The legal proceedings also has prevented Plaintiff from getting any employment since then

m) The legal proceedings and subsequent events also caused Plaintiff to aggravate an existing medical condition

n) On information and belief, defendants knew or had reason to know that Plaintiff was not driving, did not make illegal U-turn, did not have a suspended License and most importantly was not driving a car. Rather, defendants merely sought to justify their false arrest, detention and strip search of Plaintiff, and to prevent his access to courts should plaintiff become desirous of taking legal action

o) There was no articulate justification for plaintiff's strip search pursuant to plaintiff's purported illegal U-Turn and suspended license arrest

p) Plaintiff is now unemployed, unable to get employment and also dealing with severe medical condition

7} Defendants actions against plaintiff were undertaken pursuant to municipal policies, practices and customs

8) Moreover, plaintiff's right to be free of a false arrest, false imprisonment , malicious prosecution, strip searches and malicious abuse of process are clearly established and reasonable persons employed by municipal defendants are aware or have reasons to be aware of this

9) As a proximate result of defendant illegal acts towards plaintiff, plaintiff has suffered and continues to suffer substantial losses

10) As a further proximate result of defendant's actions towards plaintiff, plaintiff has suffered and continues to suffer impairment and damage to his good name and reputation

11) As a proximate result of defendants illegal acts towards plaintiff, Plaintiff lost his job and has remained unemployed since then

12) As a further proximate result of defendants' actions, Plaintiff has suffered and continues to suffer severe and lasting embarrassment, humiliation and anguish, and other incidental and consequential damages and expenses

13) The conduct of defendant in maliciously abusing process against plaintiff, and in false arresting, in false imprisoning, in maliciously prosecuting and in strip searching plaintiff was outrageous and was done with reckless indifference to plaintiff's protected civil rights, entitling plaintiff to an award of punitive damages as against the individual defendants

V) CAUSES OF ACTION

FIRST CAUSE OF ACTION

14) Plaintiff hereby repeats and realleges each and every paragraph above

15) By falsely arresting and imprisoning plaintiff without probable cause , defendants violated the 4th, 5TH AND 14th amendments of the United States Constitution as secured by 42 USC Section 1983

SECOND CAUSE OF ACTION

18) Plaintiff hereby repeats and relleges each and every paragraph above

19) By strip searching plaintiff for a nonviolent infraction , defendants violated the 4th , 5th and 14th amendments of the United States Constitution as secured by 42 U.S.C Section 1983

THIRD CAUSE OF ACTION

20) Plaintiff hereby repeats and realleges each and every paragraph above

21) By maliciously prosecuting plaintiff for illegal U-turn and suspended license without probable cause and solely to prevent his access to the courts, defendants

Violated the 4th, 5th and 14th Amendments of the United States Constitution as secured by 42 U.S.C Section 1983

FOURTH CAUSE OF ACTION

22) Plaintiff hereby repeats and realleges each and every paragraph above

23) By using Plaintiffs phone, without any authorization from plaintiff and by further communicating with Plaintiffs then colleague and family members

without authorization from Plaintiff, defendants violated Plaintiffs right to his personal property. Furthermore, Defendants by utilizing Plaintiff's

phone to communicate information that they knew to be false or should have known to be false, caused Plaintiff further embarrassment, loss of job and

and additional severe medical issues

V1 PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this court grant judgment to him containing the following relief

a) An award of Plaintiff's actual damages in an amount to be determined at trial

b) An award of compensatory damages to compensate plaintiff for mental anguish, humiliation, embarrassment, and emotional injury

c) An award for the loss of employment and subsequent inability to get paid employment in the industry as a result of the criminal proceedings

d) An award of punitive damages as against the individual defendants

e) An order enjoining defendants from engaging in the wrongful practices alleged herein

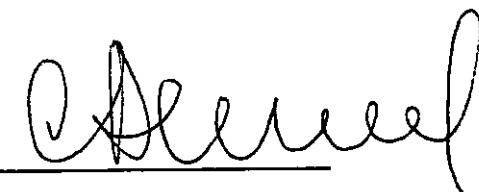
f) An award of reasonable personal fees and the costs of this action

l) Such Other and further relief as this court may deem just and proper

Dated: New York, New York

July 6th, 2015

Respectfully Submitted;

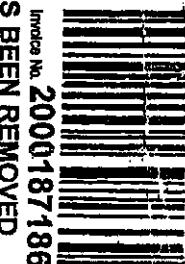
By 

Chidi David Achezara





NYPD PETs PROPERTY and EVIDENCE
TRACKING SYSTEM
Property Clerk Invoice
PD-821-141 (Rev. 11-08)



NOTICE TO PERSONS FROM WHOM PROPERTY HAS BEEN REMOVED

BY THE POLICE DEPARTMENT

Invoice No. 2000187186

The person from whose possession property was taken should retain and safeguard the invoice. The New York City Police Department can change the Invoice Category without further notice. In order to obtain the return of property, the claimant or a representative authorized by a notarized letter to claim the property will be required to submit, in person or by mail, the invoice and proper identification (one (1) government issued photo identification plus an original (1) non-photo identification) to the office of the Property Clerk. A claimant demanding the return of property other than Arrest Evidence, DNA Evidence or Forfeiture does not require a District Attorney's Release and may make such demand whether or not criminal proceedings have been instituted and, if instituted, whether or not such proceedings have been terminated.

ARREST EVIDENCE/DNA EVIDENCE/FORFEITURE

The property may be disposed of by the Property Clerk according to law, unless the claimant demands the property no later than 120 days after the termination of criminal proceedings. A claimant demanding the return of arrest evidence/DNA evidence/forfeiture from the Property Clerk should obtain, before making a demand, either a District Attorney's Release or a supervising District Attorney's statement refusing to grant a release. Presentation of either or both of these documents to the Property Clerk is NOT required for making a timely demand. If a demand for the property is made without a District Attorney's Release or a supervising District Attorney's statement, the claimant shall have 270 days from the date of demand to obtain a District Attorney's Release or a Supervising District Attorney's statement refusing to grant a release. If a release or a statement refusing to grant a release is not provided to the Property Clerk within 270 days of the date of demand, the property may be disposed of according to law. If a claimant timely provides the Property Clerk with a District Attorney's statement refusing to grant a release, the claimant must, when the District Attorney no longer needs the property, obtain and submit a District Attorney's Release to the Police Department. Forfeiture property may, additionally require a Civil Enforcement Release prior to release.

Investigatory property is disposed of after one (1) year, unless otherwise requested by the investigating officer.

DECEDENT'S PROPERTY
LETTERS TESTAMENTARY or LETTERS OF ADMINISTRATION obtained from the Surrogate Court of the decedent's county of residence are required for release.

FOUND PROPERTY

Pursuant to law, found property will be held for the following periods of time (unless sooner delivered to owner):

- a. Property having a value of less than \$100 — 3 months
- b. Property having a value of \$100 but less than \$500 — 6 months
- c. Property having a value of \$500 but less than \$5000 — 1 year
- d. Property having a value of \$5000 or more — 3 years

SAFEKEEPING

Property held for safekeeping must be claimed within 120 days from the date it was invoiced. After 120 days, property will be disposed of as per applicable NYC Law. All firearms, rifles, and shotguns, invoiced for safekeeping must be reclaimed by the owner within one (1) year of the date of invoice. After the expiration of one (1) year, the firearm, rifle, or shotgun will be disposed of by the Property Clerk pursuant to law, without further notice.

PEDDLER PROPERTY

Peddler property that is deemed trademark counterfeit, and classified found/abandoned property will be destroyed on intake. All other Peddler Property is held for a period of 90 days. A claimant that demands the return of his/her peddler property must obtain a letter from the NYPD Law department stating the property can be released and:

- a. A claimant that was issued an Environmental Control Board summons must advise — _____

YEAR OF OFFENSE(S)?

3/5/2013

CHARGE(S):

- ALCOHOL IN PUBLIC
- BIKE ON SIDEWALK
- RECKLESS DRIVING
- DISORDERLY CONDUCT
- LITTERING IN PUBLIC
- PARK OFFENSE
- URINATING IN PUBLIC
- MARIJUANA
- OTHER Illegal
Use

CS01
COUNTY: BRONX
CRIMS SUPREME COURT CASE SELECT
PAGE: 1 OF 1
NAME: DAVID, CHIDI
AKA:
AKA:
CCN:
1) 2013BX013330
CASE STATUS: 03/12/2014
NYSID NUM: F 2)
ARREST TIME: 23:09
DATE OF BIRTH: [REDACTED]
ARREST DATE: 03/05/2013
ARREST NUM: B13616222
3)
LAST USER (Y/N) ? N
CASE TYPE: NON-FINGERPRINT
DATE OF BIRTH: [REDACTED]
ARREST DATE: 03/05/2013
ARREST NUM: B13616222

COMMAND: MESSAGE: ONLY DEFENDANT FOUND ON FILE

CRIMINAL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

THE PEOPLE OF THE STATE OF NEW YORK
VS

CERTIFICATE OF DISPOSITION
NUMBER: 121430

DAVID, CHIDI
Defendant

[REDACTED]
Date of Birth

Address

[REDACTED]
NYSID Number

City State Zip

[REDACTED]
03/05/2013
Date of Arrest/Issue

Docket Number: 2013BX013330

Summons No:

VTL 511.1A VTL 509.1
Arraignment Charges

Case Disposition Information:

<u>Date</u>	<u>Court Action</u>	<u>Judge</u>	<u>Part</u>
03/10/2014	DISMISSED AND SEALED	KELLY, S	AP4

**DISMISSED
& SEALED**

I HEREBY CERTIFY THAT THIS IS A TRUE EXCERPT OF THE RECORD ON FILE IN
THIS COURT.

REYES, W
COURT OFFICIAL SIGNATURE AND SEAL

07/07/2014
DATE FEE: 10.00

(CAUTION: THIS DOCUMENT IS NOT OFFICIAL UNLESS EMBOSSED WITH THE COURT
SEAL OVER THE SIGNATURE OF THE COURT OFFICIAL.)

CRIMINAL COURT OF THE CITY OF NEW YORK
COUNTY OF BRONX

THE PEOPLE OF THE STATE OF NEW YORK
VS.

DAVID, ACHEZARA

DEFENDANT

ADDRESS

CITY **STATE** **ZIP**

**CERTIFICATE OF DISPOSITION
NUMBER: 14555**

FEE: \$10.00

DATE OF BIRTH

03/05/2013

ISSUE DATE

SUMMONS NUMBER: 441222708

PL 240.20 07 0V

ARRAIGNMENT CHARGES

CASE DISPOSITION INFORMATION:

DATE COURT ACTION

05/08/2013 DISM - LEGALLY INSUFFICIENT

JUDGE PART
MCGUIRE,W **SAP-D**

I HEREBY CERTIFY THAT THIS IS A TRUE EXCERPT OF THE RECORD ON FILE IN THIS COURT.

COURT OFFICIAL SIGNATURE AND SEAL

07/07/2014

DATE

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